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Paper No. 6

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MAIL

AUG 25 2004

**DIRECTOR OFFICE
TECHNOLOGY CENTER 2100**

In re Application of:
Salman Abbasi et al.
Application No. 09/597,130
Filed: June 20, 2000
For: METHODS AND SYSTEMS FOR
IMPROVING DATA TRANSMISSION
RATES HAVING ADAPTIVE
PROTOCOLS

DECISION ON PETITION
UNDER 37 CFR §1.181 TO
WITHDRAW HOLDING OF
ABANDONMENT

This is a decision on the petition filed 08 April 2004 under 37 CFR §1.181 to withdraw the holding of abandonment of the above-identified application.

This application was held abandoned for failure to respond in a timely manner to the Office Action mailed 25 June 2003 (paper no. 3). A Notice of Abandonment was mailed 05 February 2004 (Paper No. 4).

In support of the petition, Petitioner provides a copy of (1) a postcard receipt (without a UPSTO date stamp); (2) a revocation of associate power and appointment of new associate attorney and change of correspondence address; (3) an amendment; (4) 4 sheets of formal drawings with cover letter; (5) a transmittal form with a certificate of mailing signed by Thomas M. Isaacson and dated 25 September 2003 indicating transmittal of an amendment, drawing(s), power of attorney, revocation, and change of correspondence address, and return postcard; and (6) a personal statement under 37 CFR 1.8(b)(3) from Thomas M. Isaacson.

BASIS OF OPINION

The relevant portion of the Rules are reproduced below.

37 C.F.R. § 1.8 Certificate of mailing or transmission

(b) In the event that correspondence is considered timely filed by being mailed or transmitted in accordance with paragraph (a) of this section, but not received in the Patent and Trademark Office, and the application is held to be abandoned or the proceeding dismissed, terminated, or decided with prejudice, the correspondence will be considered timely if the party who forwarded such correspondence:

(1) Informs the Office of the previous mailing or transmission of the correspondence promptly after becoming aware that the Office has no evidence of receipt of the correspondence,

(2) Supplies an additional copy of the previously mailed or transmitted correspondence and certificate, and

(3) Includes a statement which attests on a personal knowledge basis or to the satisfaction of the Commissioner to the previous timely mailing or transmission. If the correspondence was sent by facsimile transmission, a copy of the sending unit's report confirming transmission may be used to support this statement.

Petitioner has promptly informed the Office of the previous transmission, supplied a copy of the previously transmitted correspondence, and provided a statement that attests on a personal knowledge basis to the previous timely transmission of the correspondence.

In reviewing the petition and the attached copies of the postcard receipt, transmittal form, and amendment, it is noted the papers were timely filed, but with an incorrect application serial number 09/597,120. The correct application serial number should be --09/597,130--.

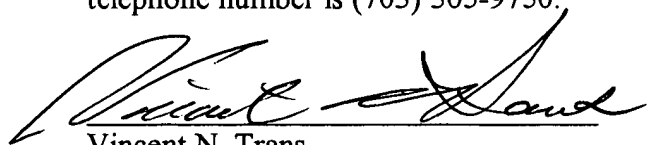
Under current Office procedure, a response that has an incorrect application number is handled in accordance with MPEP §508.03. If a paper having an incorrect application number contains sufficient information to identify the correct application and was timely filed, the holding of abandonment will be withdrawn. In reviewing the papers submitted, it is concluded that the information contained thereon, includes name of the inventor, filing date of the application, title of the invention and the name of an examiner in the TC examining the application, is sufficient to associate the papers with the instant file.

Thus, Petitioner has established that a response was timely filed and the Abandonment was the result of Office error in not matching the response to the application file.

The petition is **GRANTED**. The Notice of Abandonment is **WITHDRAWN**.

The application file is being forwarded to the Technology Center support staff for entry of the amendment. After processing, the application will then be forwarded to the Examiner for appropriate action.

Any inquiry concerning this decision should be directed to Vincent N. Trans whose telephone number is (703) 305-9750.



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